

**FLOOD DIVERSION BOARD OF AUTHORITY
OCTOBER 8, 2015—3:40 PM**

1. PRESENTATION – AGRICULTURAL RISK STUDY INITIAL ASSESSMENT

A presentation was given prior to the board meeting on the agricultural risk of temporary water storage for the FM Diversion project. The research team consisting of Dean Bangsund, Nancy Hodur, and David Saxowsky from NDSU Department of Agribusiness and Applied Economics were present.

Mr. Bangsund said the study focused on the frequency (likelihood or probability of planting delays); magnitude (revenue losses); and geography (how effects vary among storage areas). The research team recommends impacted lands along the rivers be evaluated, implications of federal crop insurance be reviewed, and alternative compensation and mitigation strategies continue to be evaluated by the FM Diversion Authority. He said the study highlights the complexity of this issue and some issues remain unquantified.

Mr. Vanyo said the findings from the study will be reviewed further by the Diversion Agricultural Policy Subcommittee and their recommendations will be forwarded to the Diversion Authority Board.

2. MEETING TO ORDER

A meeting of the Flood Diversion Board of Authority was called to order on Thursday, October 8, 2015, at 3:40 PM in the Fargo City Commission Room with the following members present: Cass County Commission representative Darrell Vanyo; Cass County Commissioner Ken Pawluk; West Fargo City Commissioner Mike Thorstad; Fargo City Mayor Tim Mahoney; Fargo City Commissioner Mike Williams; Fargo City Commissioner Melissa Sobolik; Cass County Joint Water Resource District Manager Rodger Olson; and Clay County Commissioner Kevin Campbell. Moorhead City Council Member Nancy Otto was absent. Also present was ex-officio member Gerald Van Amburg, Buffalo-Red River Watershed District.

Staff members and others present: Cass County Administrator Keith Berndt; Interim Fargo City Administrator Bruce Grubb; Moorhead City Manager Michael Redlinger; Clay County Administrator Brian Berg; Cass County Engineer Jason Benson; Fargo City Director of Engineering Mark Bittner; Fargo City Engineer April Walker; Moorhead City Engineer Bob Zimmerman; Tom Dawson, Chairman; Chamber of Commerce Business Leaders Taskforce; and Bruce Spiller, CH2M.

3. MINUTES APPROVED

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to approve the minutes from the September 2, and September 10, 2015, meetings as presented. Motion carried.

4. AGENDA ORDER

MOTION, passed

Mr. Mahoney moved and Mr. Campbell seconded to approve the order of the agenda. Motion carried.

5. ADMINISTRATIVE/LEGAL UPDATE

Lawsuit update

Attorney Erik Johnson provided an update regarding lawsuits filed by the Richland-Wilkin Joint Powers Authority. The deadline for the briefing cycle of the base lawsuit is October 13th. Mr. Pawluk asked for additional information on the status of the case. Mr. Johnson said the preliminary injunction on the OHB levee was granted and clarified by the judge. The Diversion Authority filed an appeal on the injunction, which is still pending. The injunction is contingent on completion of the Minnesota EIS process. Mr. Berndt asked if the presence of the lawsuit in any way prevents the project from moving forward. Mr. Johnson said the presence of the base lawsuit does not prevent the Diversion Authority from moving forward on the diversion project.

6. MANAGEMENT UPDATE

Corps of Engineers report

The Corps of Engineers staff were unable to attend today's meeting, but submitted a written report to the board.

Program management consultant (PMC) report

Bruce Spiller provided an update on activities over the last month including work on in-town levees and pump station projects; construction and closings on homes in Oxbow; work on the Oxbow Country Club golf course; permit preparation and coordination with the Corps of Engineers; and development of procurement documents for the Public-Private Partnership (P3).

Mr. Spiller said a public meeting will be held on October 14th on the Minnesota draft EIS. The public comment period ends October 28th.

7. TECHNICAL UPDATE

Recommended Contract Actions Summary

Mr. Spiller discussed task orders, contract awards, change orders, work change directives, and reimbursement agreements for the following:

- Beaver Creek Archaeology, Inc. Task Order No. 1 Amendment 0—western alignment Phase 1 cultural investigation in the amount of \$111,000;
- Landwehr Construction, Inc.—contract award for demolition and removal of Park East Apartments in the amount of \$1,089,888;
- Industrial Builders, Inc. Change Order No. 2—work revisions to 2nd Street North flood control project south of pump station to allow work around fiber optic lines in the amount of \$169,490.20;
- Industrial Builders, Inc. Work Change Directive No. 4—2nd Street North pump station project work revisions associated with wet well modifications in the amount of \$175,000;
- Eventis Telcom, Inc.—reimbursement agreement for utility relocation associated with the 2nd Street South flood wall project in the amount of \$381,909;
- Xcel Energy—reimbursement agreement for utility relocation to move overhead power lines associated with the for 2nd Street North pump station project in the amount of \$55,000;

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to approve the appropriation of funds for the contracted actions listed above; and recommend approval of the appropriation of funds by the Dakota Metro Flood Board for the Diversion Authority. Discussion: Mr. Pawluk questioned the significant dollar amount for the change order with Industrial Builders. April Walker provided additional background information. Keith Berndt said the total cost of the 2nd Street North flood control project is substantial and the percentage of change orders at the end of a project should be reviewed to ensure they are within a certain percentage of the total project. On roll call vote, the motion carried unanimously.

8. PUBLIC OUTREACH UPDATE

Committee report

Mr. Campbell said the Public Outreach Committee met on October 7th and discussed community outreach efforts including presentations given to the State Water Commission and Horace Lions Club. The committee also discussed the upcoming public meeting to be hosted by the Minnesota DNR on the draft EIS. Bob Zimmerman said barring any comments that may require additional study, the final report should be available in the spring.

Rocky Schneider from AE2S provided an update on the website. A re-design of the website went live last week with the goal to provide a more mobile and user friendly site with better search capabilities.

Mr. Vanyo and Mr. Mahoney provided an update on their trip to Washington, D.C. last week. They met with officials from the Corps of Engineers and the Office and Management and Budget.

Business Leaders Task Force

Mr. Dawson said the task force met two weeks ago. He said members are working on proactive and positive communications regarding the project, which includes TV ads and other marketing strategies.

9. LAND MANAGEMENT UPDATE

Mr. Mahoney said the Land Management Committee met on October 7th and heard a presentation on property acquisitions and replacement homes in Oxbow. A few issues were identified as a result, which include costs associated with Oxbow's covenant regulations, landscaping bids, and revisions to the current Oxbow MOU. Mr. Spiller said the CCJWRD met this morning and based on a suggestion by April Walker, decided to hire a landscaping architect to help determine cost estimates.

CCJWRD update

Mark Brodshaug referred to the handout regarding land acquisitions completed through September 30, 2015, which includes completed acquisitions, budget figures, and completed negotiations. He said twelve homes are under construction and six homes have been completed in Oxbow; bids were opened for the Park East Apartment demolition project; coordination is underway with the North Dakota State Historic Preservation Office to mitigate the effects of removing five homes in the Mickelson historical district; and critical in-town property negotiations are continuing with Fargo Public Schools, Mid-America Steel, Case Plaza, and Kilborne Group.

10. FINANCE UPDATECommittee report

Michael Montplaisir Cass County Auditor, said the Finance Committee met on October 7th. He said currently there is \$58 million in unallocated funds available in the FY15 budget.

Drawdown Request

The committee approved a drawdown request of the final \$25 million from the U.S. Bank loan taken out by the City of Fargo. Mr. Montplaisir said the funds are needed for property purchases and home construction in Oxbow and work on the in-town levees. Ms. Sobolik asked if an additional loan will be needed. Mr. Montplaisir said another interim loan or temporary special assessment financing will be necessary for 2016 costs.

MOTION, passed

Mr. Mahoney moved and Mr. Williams seconded to authorize the City Finance Director to initiate a draw request for loan funds from U.S. Bank in the amount of \$25 million to pay for construction and other expenses of the Diversion Board of Authority. On roll call vote, the motion carried unanimously.

Voucher approval

The bills for the month are with Xcel Energy for utility relocation work; Fredrikson & Byron, P.A. for government relations services; Consolidated Communications for utility relocation work; Terracon for in-town levee work; Erik R. Johnson & Associates, Ltd. for legal services; Dorsey & Whitney, LLP for legal services; CCJWRD for costs associated with right of entry work, in-town levees, OHB ring levee, Diversion Project Assessment Committee (DPAC) work, OHB levee, and Oxbow Country Club golf course construction; and North Dakota State University for services to conduct the Ag Risk Economic Evaluation Study.

MOTION, passed

Ms. Sobolik moved and Mr. Mahoney seconded to approve the vouchers in the amount of \$5,918,684.76 for September, 2015. On roll call vote, the motion carried unanimously.

11. OTHER BUSINESS

Mr. Campbell said a few months ago the Diversion Board authorized staff to talk with the Minnesota DNR about a hardship property in Minnesota before moving forward with the acquisition process. A letter was received from the DNR stating their agency would not confirm one way or the other whether the property could be acquired and directed the Diversion Authority to confer with its legal counsel.

12. NEXT MEETING DATE

The next meeting will be held on Thursday, November 12, 2015, at 3:30 PM.

13. ADJOURNMENT

MOTION, passed

**On motion by Mr. Williams, seconded by Ms. Sobolik, and all voting in favor,
the meeting was adjourned at 4:34 PM.**

Minutes prepared by Heather Worden, Cass County Administrative Assistant